



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 10, 1998

Mr. Ron Pigott  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR98-0666

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113212.

The Texas Department of Public Safety (the "department") received a request for any photographs concerning several accidents. You explain that you do not maintain any photographs for some of the accidents: the department retains accident information for ten years. You claim that photographs responsive to the August 15, 1997 date are excepted from disclosure by section 552.108 of the Government Code. You have submitted these photographs for our review. Because you do not seek to withhold any other information, we presume that, to the extent that it exists, you have released any remaining requested information to the requestor.

Section 552.108 of the Government Code provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the August 15, 1997 accident photographs involve a case where criminal charges have been filed. You state that "the photographs in this accident will constitute evidence in any criminal litigation. Therefore, release of these photographs at this time will unduly interfere with the investigation and prosecution of these criminal charges." Because you have shown that the release of the requested photographs would interfere with the detection, investigation or prosecution of crime, we conclude that the August 15, 1997 photographs may be withheld under section 552.108(a)(1). *See* Open Records Decision No. 216 (1978).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 113212

Enclosures: Submitted documents

cc: Mr. Tom Grotenrath  
P.O. Box 1364  
Bastrop, Texas 78602  
(w/o enclosures)